IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 365 of 2006

Date of Decision: 23.11.2006

Inderjit Kaur .... Petitioner

Versus

State of Punjab and others. ... Respondents

CORAM : HON'BLE MR. JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

Present : Mr. Malkeet Singh, Advocate,
for the petitioner.

Mr. Ashok Aggarwal, Additional Advocate General, Punjab,
for respondent Nos. 1 to 3.

Mr. Surjit Singh Chauhan, Advocate,
for respondent Nos. 4 and 5.

S.D. Anand, J.

For purposes of making appointment to the post of Anganwari Worker in Village Mehandpur, the Gram Panchayat concerned invited applications. The applications so received were scrutinized by the Gram Panchayat in its meeting held on 20.08.2004. On consideration, a panel of the eligible candidates was forwarded to Child Development and Project Officer, Saroya, i.e. respondent No.3. Interviews for the appointment aforesaid were held by respondent No.3 on 8.10.2004. The candidates interviewed included petitioner-Inderjit Kaur, respondent No.5-Harjinder Kaur and two others. A merit-based panel of the eligible candidates was, thereafter, forwarded by respondent No.3 to the Panchayat Samiti for approval. It is respondent No.5 which came to be, ultimately, appointed to the post of Anganwari Worker, thereby ignoring the claim of the petitioner

who claims rule-related preferential right to the appointment being daughter-in-law of the village.

It is vehemently argued on behalf of the petitioner that it is the petitioner only who was entitled to a preferential right of appointment as against respondent No.5 who is not daughter of the village but is a daughter of a daughter of the village who (latter) is married elsewhere.

Respondents' plea is that respondent No.5 had been verbally adopted by her maternal uncle who is a resident of the very village where the appointment had been made. The plea raised thereby is that respondent No.5 would, for all intents and purposes, be treated as a daughter of the village on account of her adoption by her maternal uncle.

Annexure P/2 details the instructions regarding appointment of Anganwari Workers and Helpers. The relevant Clause (3) of the above instructions is extracted hereunder:-

> "3. Residence:
>
> For appointment of Anganwari Worker, the daughter-in-law or daughter of the village shall only be selected as Anganwari Worker.
>
> Note:- In case no eligible candidate is available in the village concerned then a candidate from the adjoining village can also be considered, but the concerned Gram Panchayat will have to pass a resolution to the effect that in spite of wide publicity in the village, no application has been received from the eligible candidate of the Village through Gram Sabha and further that the Gram Panchayat of the Village would have no objection for appointment of Anganwari worker from the other village. The

> Panchayat would also mention in the Resolution that the candidate from the other village, who is likely to be has been entrusted the job of Anganwari Centre is competent to perform the duties of Anganwari Worker successfully."

Concededly, there is no documentation with regard to the alleged adoption of respondent No.5 by her maternal uncle. Even if it is assumed that the averment with regard to her being a voter in the village is accepted as correct, it would not entitle her to raise a claim of being a daughter of the village. The factum of the performance of certain law-related and/or custom-related ceremony would be required to be averred and proved. In the present case, there is neither any averment nor obviously any proof of the performance of any ceremony in the context of adoption. The only averment by respondent Nos. 1 to 3 in the written statement is that "the private respondent No.5 is a grand daughter of Smt. Amar Kaur w/o Late Sh. Shakti Das r/o Village Mehandpur. It is submitted that Sh. Ratan Das son of Smt. Amar Kaur was issueless and he brought up his niece Smt. Harjinder Kaur (Private Respondent No.5), as his own daughter since childhood and also provided her with education and she passed her matriculation from K.S.D. High School, Mehandpur."

Insofar as respondent No.4 is concerned, it had also raised a plea reiterating the correctness of the appointment of respondent No.5 on the above indicated lines. As a similar plea raised on behalf of respondent Nos. 1 to 3 stands negatived, it would be no use reiterating the line of reasoning adopted by us in declining that plea. It may, however, be noticed that respondent No.4-Gram Panchayat, Mehandpur has made a precise plea that "the petitioner could not be appointed to the post of Anganwari worker as

there are still 5 more candidates senior to the petitioner as per merit list prepared by the gram panchayat". However, written statement is woefully deficit on the point whether the five indicated candidates are daughters-in-law or daughters of the village or not. It may be noticed that the aspect of merit would come into picture only if the contest is between a daughters-in-law or daughters of the village inter-se. There is no averment by respondent No.4 that the other five candidates are daughters-in-law or daughters of the village. The only inference deducible in the circumstances of the case is that it is the petitioner who has a preferential claim to the impugned appointment as Anganwari Worker, being daughter-in-law of the village.

In view, thus, of the above discussion, this writ petition shall stand allowed. The appointment of respondent No.5, as Anganwari Worker, shall stand quashed. The official respondents are directed to appoint the petitioner as Anganwari Worker in village Mehandpur.

The parties shall bear their own costs of the cause in the circumstances of the case.

(S.D. Anand)
Judge

November 23, 2006 (J.S. Khehar)
vkd Judge